

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	10/08/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/13/2015

2. COMAR Codification

**Title Subtitle Chapter Regulation**

14 22 02 02

3. Name of Promulgating Authority

Commission on Criminal Sentencing Policy

4. Name of Regulations Coordinator

David A Soule

Telephone Number

301-403-2707

**Mailing Address**

4511 Knox Road, Suite 309

**City**

College Park

**State**

MD

**Zip Code**

20742

**Email**

dsoule@crim.umd.edu

5. Name of Person to Call About this Document

Stacy Najaka

Telephone No.

301-403-2709

**Email Address**

snajaka@umd.edu

**6. Check applicable items:**

☐ New Regulations

☒ Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: October 7, 2015.

☐ Repeal of Existing Regulations

☐ Recodification

☐ Incorporation by Reference of Documents Requiring DSD Approval

☐ Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

☐ Yes ☒ No

**8. Incorporation by Reference**

☐ Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

☒ OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

☐ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Stuart Nathan, Assistant Attorney General, (telephone #410-585-3070) on October 8, 2015. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

David Soule

**Title**

Executive Director

**Telephone No.**

301-403-4165

**Date**

October 8, 2015

# **Title 14**

## **INDEPENDENT AGENCIES**

### **Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY**

#### **14.22.02 Criminal Offenses and Seriousness Categories**

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland.

#### **Notice of Proposed Action**

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The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation .02 under COMAR 14.22.02 Criminal Offenses and Seriousness Categories.

This action was considered at an open meeting held on September 22, 2015, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### **Statement of Purpose**

The purpose of this action is to indicate modifications to the table of seriousness categories (guidelines offense table) in Regulation .02 under COMAR 14.22.02. The proposed revisions reflect:

- (1) new and or amended offenses passed during the 2015 Legislative Session;
- (2) addition of previously unclassified offenses;
- (3) other minor edits to the table.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

Comments may be sent to David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to [dsoule@umd.edu](mailto:dsoule@umd.edu), or fax to 301-403-4164. Comments will be accepted through December 14, 2015. A public hearing has not been scheduled.

## Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

# General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

### G. Small Business Worksheet:

Attached Document:

## Title 14 INDEPENDENT AGENCIES

## Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

## 02 Criminal Offenses and Seriousness Categories

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

### .02 Seriousness Categories.

	Offense Literal	CJIS Code	Source	Felon y or Misd.	Max Term	Min Term	Offens e Type	Ser. Catego ry	Fine
1—9-1 (text unchanged)									

9-2	<b>Alcoholic Beverages</b> County-specific provisions concerning giving, serving, dispensing, keeping, or allowing alcoholic beverages without license; bottle clubs; places of public entertainment – Anne Arundel, Baltimore, Calvert, Caroline, Charles, Dorchester, Frederick, Kent, Prince George's, Queen Anne's, Somerset, Talbot, Wicomico, or Worcester Counties, or Baltimore City	1-0884	2B, §20-101 2B, §20-102 2B, §20-103 2B, §20-103.1 2B, §20-103.2 2B, §20-105 2B, §20-105.1 2B, §20-106 2B, §20-107.1 2B, §20-108.1 2B, §20-108.2 2B, §20-110 2B, §20-111 2B, §20-112 2B, §20-113	Misd.	2Y		Property	VII	\$10,000
[9-2] 9-3	<b>Animals, Crimes Against</b> Animal cruelty	1-0500 1-0501 1-0503	CR, §10-604	Misd.	90D		Property	VII	\$1,000
[9-3] 9-4	<b>Animals, Crimes Against</b> Aggravated animal cruelty	1-0505 1-0508	CR, §10-606	Felony	3Y		Property	VI	\$5,000
10—30 (text unchanged)									
30-1	<b>Assault and Other Bodily Woundings</b> Assault on law enforcement officer, [or] parole or probation agent, or first responder, 2 <sup>nd</sup> degree	1-1416	CR, §3-203(c)	Felony	10Y		Person	V	\$5,000
30-2—52 (text unchanged)									



54-2	<b>CDS and Paraphernalia</b> Unlawful distribution, manufacture, etc.; counterfeiting, etc., manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, MDMA (methylenedioxymetham phetamine), 750 grams or more, <b>subsequent</b>	1- 0662 1- 0696 2- 0233 2- 0237 2- 0300 2- 0301	CR, §5-609(b) CR, §5-609(c) CR, §5-609(d)	Felon y	20Y 25Y 40Y	MM* = 10Y <sup>1</sup> MM* = 25Y <sup>1</sup> MM* = 40Y <sup>1</sup>	Drug	IIIA	\$100,0 00
55—58 (text unchanged)									
58-1	<b>CDS and Paraphernalia</b> <i>Distribute, possess, manufacture, or use cannabis diverted from a qualifying patient, caregiver, licensed grower, or licensed dispensary</i>		HG, §13-3313	Felon y	5Y		Drug	IV	\$10,00 0
59 (text unchanged)									
60	<b>CDS and Paraphernalia</b> Unlawful distribution, manufacture, etc.; counterfeiting, etc.; manufacture, possession, etc., of certain equipment for illegal use; keeping common nuisance, Schedules I through V non-narcotics (e.g., amphetamines, marijuana, diazepam, MDMA under 750 grams, and Valium), and buprenorphine, <b>subsequent</b>	1- 0233 1- 0234 1- 0235 1- 0236 1- 0237 1- 0238 1- 0239 1- 0660 2- 3550	CR, §5-607(b)	Felon y	5Y	MM*= 2Y <sup>1</sup>	Drug	IV	\$15,00 0

61	<b>CDS and Paraphernalia</b> Manufacture, distribute, dispense, or possess certain Schedule I through V non-narcotics, large amounts as specified in CR, §5-612	[2-0210] [2-0215] 1-0879 1-0880 1-0881	CR, §5-612	Felony	5Y	MM* = 5Y	Drug	IV	\$100,000
61-1—82 (text unchanged)									
82-1	<b>Commercial Fraud, Other</b> Fraudulent Insurance Acts—Violation of §27-407 or any other provision of §§27-403, 27-404, 27-405, 27-406, 27-406.1, 27-407, 27-407.1, or 27-407.2 where the value of the fraud is less than \$300	3-0127 3-0135 3-0140 3-0145 3-0155 [3-0160] 3-0165 3-0185	IN, §27-408(a)(2) (penalty)	Misd.	18M		Property	VII	\$10,000
83—162 (text unchanged)									
162-1	<b>Fraud, Miscellaneous</b> Act as contractor or subcontractor without a license, 1 <sup>st</sup> offense	1-1597 1-1598	[CR]BR, §8-601	Misd.	6M		Property	VII	\$1,000
163—207-3 (text unchanged)									
207-4	<b>Identity Fraud</b> Use an interactive computer service to disclose personal identifying information of an individual in order to annoy, threaten, embarrass, or harass	1-1337	CR, §8-301[(b)(1)](b-1) CR, §8-301(g)(4) (penalty)	Misd.	18M		Property	VII	\$500
207-5—208 (text unchanged)									



209	<b>Influencing or Intimidating Judicial Process</b> Failure to appear in connection with a felony	1-1474	CP, §5-211[(b)](c)(1)	Misd.	5Y		Person	V	\$5,000
209-1	<b>Influencing or Intimidating Judicial Process</b> Failure to appear in connection with a misdemeanor or for appearance as witness	1-1475	CP, §5-211[(b)](c)(2)	Misd.	1Y		Person	VII	\$1,000
209-2—210 (text unchanged)									
211	<b>Influencing or Intimidating Judicial Process</b> Intimidating or corrupting jurors, etc.; obstructing justice	1-0358 1-0362	CR, §9-305[(a)](c)(1)	Misd.	5Y		Person	V	\$5,000
212—309 (text unchanged)									
309-1	<b>Prostitution and Related Crimes</b> Prostitution, etc.— Human trafficking, take, harbor, or unlawfully detain another for prostitution	1-0752 1-0757 1-0759 1-0762 1-1080 [1-1081] 1-1082 1-1083	CR, §11-303(c)(1)	Misd.	10Y		Person	III	\$5,000

310	<b>Prostitution and Related Crimes</b> Prostitution, etc.— Human trafficking, take, harbor, or unlawfully detain a minor for prostitution	1-0754 1-0756 1-0758 1-0761 1-0786 1-0787 1-0788 1-0789	CR, §11-303(c)(2)	Felony	25Y		Person	II	\$15,000
311—402 (text unchanged)									
403	<b>Weapons Crimes—In General</b> Possession of regulated firearm after having been convicted of a crime of violence or select drug crimes	1-1609	PS, §5-133(c)	Felony	15Y	MM* = 5Y <sup>[1]2</sup>	Person	V	
404—420 (text unchanged)									

<sup>1</sup>A court may depart from this proscribed mandatory minimum sentence if the court finds and states on the record that, giving due regard to the nature of the crime, the history and character of the defendant, and the defendant's chances of successful rehabilitation: (1) imposition of the mandatory minimum sentence would result in substantial injustice to the defendant; and (2) the mandatory minimum sentence is not necessary for the protection of the public.

<sup>[1]2</sup>At the time of the offense, if more than 5 years has elapsed since the person completed serving the sentence for the most recent conviction of a crime of violence or select drug crimes (including all imprisonment, mandatory supervision, probation, and parole), the imposition of the mandatory minimum sentence is within the discretion of the court.

MM\* = Non-suspendable mandatory minimum penalty

♦ Defined as a violent crime in Correctional Services Article, §7-101, Annotated Code of Maryland. At the time of imposition of a sentence of incarceration for these offenses, Criminal Procedure Article, §6-217, Annotated Code of Maryland indicates the Court shall

state in open court the minimum time the defendant must serve before becoming eligible for parole.

♦♦ Defined as a violent crime only under certain circumstances specified in Criminal Law Article, §14-101, Annotated Code of Maryland.

General Rules (text unchanged)